



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Employment Security Department

- ☒ Preproposal Statement of Inquiry was filed as WSR 07-11-162 ; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Adopting a definition of the term "fraud" in Chapter 192-100 WAC; adopting a rule in Chapter 192-320 WAC clarifying the charging of benefits paid in error due to an employer's failure to accurately report wages and hours; and adopting new rules, and amending existing rules, within Chapters 192-220 and 192-230 WAC, relating to the assessment and collection of benefit overpayments, including those resulting from fraud.

Hearing location(s):

Employment Security Department
Maple Leaf Conference Room, 2nd Floor
212 Maple Park
Olympia, Washington

Submit written comments to:

Name: Pamela Ames, ESD Rules Coordinator
Address: Employment Security Department
PO Box 9046, Olympia WA 98506
e-mail pames@esd.wa.gov

fax (360) 902-9799 by (date) November 7, 2007

Date: November 8, 2007 Time: 1:30 p.m.

Assistance for persons with disabilities: Contact

Date of intended adoption: November 20, 2007

(Note: This is NOT the effective date)

Beverly Peterson by November 7, 2007

TTY (360) 902-9569 or (360) 902-9234

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules will implement sections 1 and 7 ESSB 5373 (C 146, L 07). The legislation imposes increasing disqualification periods and monetary penalties for occurrences of fraud beyond the first. These increased penalties apply to all fraud decisions mailed on or after January 1, 2008. The rules further explain how the penalty will be calculated, notification to the claimant and an interested employer, and clarify repayment requirements. In addition, the rules clarify that overpayments resulting from an employer's failure to correctly report wages and hours will not be charged to the claimant, and the employer will be charged for all benefit paid in error.

WACs 192-28-122, 192-28-125, 192-28-130, 192-28-135, 192-28-145, and 192-28-150 are repealed. The rules are revised for additional clarity and readopted in Chapter 192-230 WAC.

Reasons supporting proposal: The department's rules are not consistent with the legislation as amended and must be revised to explain to employers, claimants, and staff how the statutes will be implemented. In addition, rules are readopted in new chapters organized by subject matter and rewritten to improve clarity and understandability.

Statutory authority for adoption: RCW 50.12.010, RCW 50.12.040 and RCW 50.20.010.

Statute being implemented: RCW 50.12.070 and RCW 50.20.070

Is rule necessary because of a:

Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION:

CODE REVISER USE ONLY**DATE**

10-2-07

NAME (type or print)

Paul Trause

SIGNATURE**TITLE**

Deputy Commissioner

10:22
07-20-120

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Employment Security Department

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Juanita Myers	212 Maple Park, Olympia	(360) 902-9665
Implementation.... Nan Thomas	212 Maple Park, Olympia	(360) 902-9303
Enforcement..... Nan Thomas	212 Maple Park, Olympia	(360) 902-9303

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

The proposed rules will not impose more than minor costs on businesses, nor will there be a disproportionate impact on small business. Further, business costs associated with these rules are the result of the underlying legislation.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Juanita Myers, UI Rules Coordinator

Address: Employment Security Department

PO Box 9046

Olympia WA 98506

phone (360) 902-9665

fax (360) 902-9799

e-mail jmyers@esd.wa.gov

☐ No: Please explain: